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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
(SAN JOSE DIVISION)

FINJAN LLC., a Delaware Limited Liability
Company,

Plaintiff,

v.

SONICWALL, INC., a Delaware Corporation,

Defendant.

Case No. 5:17-cv-04467-BLF-VKD

**STIPULATION AND [PROPOSED]
ORDER**

STIPULATION AND [PROPOSED] ORDER
Case No. 5:17-cv-04467-BLF-VKD

1 Pursuant to Civil Local Rule 7-12 and Federal Rule of Civil Procedure 54, and in view of
 2 the Court's orders addressing summary judgment and claim construction in this case, the parties
 3 have met and conferred and hereby offer the following stipulation.

4 1. The Court has entered dispositive orders as to all claims brought by Finjan in this
 5 case, except for: (a) Finjan's claims of infringement under the '926 Patent relating to the
 6 combination of a SonicWall Gateway with SonicWall's Capture ATP product; and (b) Finjan's
 7 claims of infringement under the '408 Patent relating to SonicWall's Capture ATP product
 8 standing alone (i.e., not combined with any SonicWall Gateway).

9 2. **As to Finjan's remaining infringement claims under the '926 Patent:** The Court
 10 has previously determined in the context of the '494, '844, and '780 Patents that "SonicWall
 11 Gateways do not receive 'Downloadables'" under the construction of the term Downloadable.
 12 (Summ. J. Order of Mar. 5, 2021). The parties stipulate and agree that, solely as to the issue of
 13 interpreting the claim limitation "a receiver for receiving an incoming Downloadable" in the
 14 asserted claims, the Court's determination that "SonicWall Gateways do not receive
 15 'Downloadables'" applies to the asserted claims of the '926 Patent. Finjan further stipulates that
 16 under the determination made in the Court's Summary Judgement Order of March 5, 2021, Finjan
 17 is unable to present evidence sufficient to prove infringement of the '926 Patent by SonicWall. In
 18 view of the foregoing, and with a shared understanding that Finjan's stipulated inability to prove
 19 infringement of the '926 Patent by the combination of a SonicWall Gateway with SonicWall's
 20 Capture ATP product is based solely on the interpretation of the "receiving" limitation as set forth
 21 above and the Court's other orders, the parties stipulate and agree that judgment for SonicWall is
 22 warranted as to Finjan's claims for infringement of the '926 Patent, and so move for the same.

23 3. **As to Finjan's remaining infringement claims under the '408 Patent:** Finjan
 24 withdraws its contention that SonicWall's Capture ATP product, standing alone, practices each
 25 and every limitation of the asserted '408 Patent claims. The parties stipulate and agree that such
 26 withdrawal is without any concession as to any individual limitation, or any subset of limitations,
 27 for any asserted claim, and further that each party shall bear its own costs and fees for the
 28 withdrawn contentions. In view of said withdrawal, the Court's previous orders fully dispose of

1 Finjan's claims for infringement of the '408 Patent. The parties therefore stipulate and agree that
2 judgment for SonicWall is warranted as to Finjan's claims for infringement of the '408 Patent, and
3 so move for the same.

4. **Stipulated motion for entry of final judgment.** The parties jointly agree that the Court's orders to date, combined with the stipulations above, leave Finjan unable to establish SonicWall's liability for any of Finjan's remaining claims in the present case. Finjan notes that it has not yet had an opportunity to submit any of the Court's orders for appellate review, and reserves its ability to prove SonicWall's liability should a court of appeals modify the Court's orders. On that basis, and so as to enable appellate review, the parties jointly agree that should the Court approve said stipulations, final judgment for SonicWall on all claims would be warranted, with each party bearing its own attorney fees and case expenses in connection with the claims of the '926 and '408 Patents subject to this stipulation, except such costs that are recoverable by SonicWall as the prevailing party, and so move for the same.

IT IS THEREFORE HEREBY STIPULATED pursuant to Civil Local Rule 7-12 and Federal Rule of Civil Procedure 54 by and among the parties, and the parties do jointly hereby request that the Court enter an order that:

1. The Court’s determination that “SonicWall Gateways do not receive ‘Downloadables’” in connection with the ’494, ’844, and ’780 Patents should, and hereby does, control the interpretation of the limitation “a receiver for receiving an incoming Downloadable” in the asserted claims in the asserted claims of the ’926 Patent. Finjan having stipulated that it is unable to prove infringement under such an interpretation, and in view of the Court’s previous orders addressing the ’926 Patent, the Court finds that SonicWall does not infringe the asserted claims of the ’926 Patent.

2. Finjan having withdrawn its contention that SonicWall's Capture ATP product, standing alone, practices each and every limitation of the asserted '408 Patent claims (without concession as to any individual limitation or subset of limitations).

1 and in view of the Court's previous orders addressing the '408 Patent, the Court
2 finds that SonicWall does not infringe the asserted claims of the '408 Patent.

3. The determinations above, combined with the Court's previous orders, resolve all
4 of Finjan's claims against SonicWall in the present case. The Court will enter final
5 judgment for SonicWall on all claims, with each party bearing its own attorney fees
6 and case expenses except such costs that are recoverable by SonicWall as the
7 prevailing party.

8
9 Dated: September 3, 2021

FISH & RICHARDSON P.C.

10
11 By: /s/ Juanita R. Brooks
12 Juanita R. Brooks
13 brooks@fr.com
14 Attorney for Plaintiff
15 FINJAN LLC

16
17 Dated: September 3, 2021

DUANE MORRIS LLP

18 By: /s/ Matthew C. Gaudet
19 Matthew C. Gaudet
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21 Attorney for Defendant
22 SONICWALL INC.

23 Pursuant to Civ. Local Rule 5.1(i)(3) regarding signatures, I attest under penalty of perjury
24 that concurrence in the filing of this document has been obtained from counsel for Sonicwall.

25
26 Dated: September 3, 2021

FISH & RICHARDSON P.C.

27 By: /s/ Juanita R. Brooks
28 Juanita R. Brooks
brooks@fr.com
Attorney for Plaintiff
FINJAN LLC

1 **[PROPOSED] ORDER**
2

3 PURSUANT TO STIPULATION, **IT IS SO ORDERED.**
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5 DATED this _____ day of _____, 2021.
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8 The Honorable Beth Labson Freeman
9 UNITED STATES DISTRICT JUDGE
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